

2013 HousingIowa Conference

Fair Housing Case Studies

CASE 1

Hamilton vs. University of Nebraska at Kearney, et al

The case: In *Hamilton vs. University of Nebraska at Kearney, et al*, the Complainant, a disabled college student with a prescription for a therapy dog, alleged that University denied her reasonable accommodation request to have a therapy dog live with her in university housing.

Result: The U.S. District Court for Nebraska ruled in favor of the USA/Hamilton in denying the UNK's motion for summary judgment. The court's ruling considered only the threshold issue of whether the student housing at UNK is a "dwelling" within the meaning of the FHA. The court rejected UNK's attempt to analogize the university housing context to incarceration, finding no basis for the conclusion that that UNK's educational goals should make it exempt from the FHA. The court also noted that even more restrictive places, such as substance abuse treatment centers, have been held to constitute dwellings under the FHA. (The other issues in the case are in litigation.)

CASE 2

Iowa Complaint regarding an emotional support animal for physically disabled child

The Case: The Complainant alleged an Iowa landlord denied a reasonable accommodation for her child. The landlord allegedly refused to allow the seven-year-old girl to have a medically-prescribed emotional support animal. Additionally, the owners allegedly told the mother that if she got the animal, she would have to either move or pay more money to stay.

Result: HUD issued a Charge of Discrimination against the landlord/owners of the apartment building in a small Iowa town, for violating the Fair Housing Act for refusing to accommodate a request from a family with a child with cerebral palsy. The Complainant and Respondents entered into a Consent Order. The Complainant received \$7,500.00. The Respondents agreed to attend four hours of Fair Housing training, display a HUD Fair Housing Poster, use the HUD Fair Housing emblem on all advertisements for the subject property, and to create a Reasonable Accommodation Policy.

CASE 3

Sexual harassment in downtown Waterloo, Iowa

The Case: Complainants alleged that the on-site manager of a HUD subsidized apartment building in downtown Waterloo, Iowa, sexual harassed the women living there. The Complainants alleged that the manager sexually harassed the women by commenting on their body parts, making other sexual comments, making sexual gestures, entering women's apartments without permission or notice, and conditioning housing benefits, such as rent, cable television, and lockout fees, in exchange for sexual favors.

Result: Following an investigation of the facts, HUD charged the case and DOJ filed a lawsuit, which settled for \$95,000. The consent decree required the defendants to pay \$80,000 to 10 victims and \$15,000 to the United States as a civil penalty. The consent decree also prohibited the defendants from engaging in discrimination and contained a provision preventing the manager from returning to work in the management, rental or maintenance of rental housing.

CASE 4

The Case: Sexual harassment case in Muscatine, Iowa

Multiple complainants alleged that their landlord made sexually explicit remarks to female tenants, asked those tenants to engage in sex acts with him or suggested that he would accept sex acts in exchange for rent. In one case, Barclay informed a tenant that her living arrangement was in violation of Section 8 housing rules, but that he would "let it slide" if she performed oral sex on him.

Result: Following an investigation of the facts by the Iowa Civil Rights Commission, the State filed a lawsuit against the landlord which subsequently settled. The landlord will pay \$170,000 in damages to the six former tenants, and will be required to hire a property management company to maintain his 17 rental properties. He will be prohibited from visiting the properties and will not have access to keys.

CASE 5

Iowa Jury finds Management Company Discriminated Against two Tenants and awards \$147,000 in Damages, Council Bluffs, Iowa

The Case: The Complainant, two men sharing a one-bedroom apartment, alleged that employees or agents of their former apartment's management company subjected them to harassment and other discriminatory treatment based on their sexual orientation in violation of Iowa Civil Rights Act which prohibits interference, coercion or intimidation in housing based on a protected class status. The Complainants alleged an on-site maintenance technician verbally harassed the two men by calling them derogatory terms and slurs, and making offensive gestures on an almost daily basis during March and April 2011. He directed words such as "fag," "queer," "butt pirate," and "pillow biter" towards the Complainants. One of the Complainants complained about the harassment to the on-site property manager who failed to take any corrective action. He then complained to a supervisor at the management company's corporate office about the harassment and she likewise failed to take any corrective action.

Result: Following an investigation of the facts, the State filed a lawsuit against the Respondents. During the trial, the jury heard evidence that the harassment began early in March, 2011 after the maintenance technician discovered that the Complainants were sharing a one-bedroom apartment. From that time until they left the complex in April 2011, he harassed the two men on an almost daily basis. The jury also heard that besides calling Messrs. Anderson and Morehouse “faggots” to their faces and to other employees and residents. After a four-day jury trial, the Iowa jury determined that the Respondents had discriminated against the Complainants based on their sexual orientation. The jury awarded damages of \$22,000 in economic damages and \$50,000 in emotional distress damages. The jury also found by clear and convincing evidence that Respondents’ conduct amounted to a willful and wanton disregard of the Complainants’ rights and awarded \$75,000 in punitive damages. The monetary damages will be paid to Complainants and the ICRC sought equitable remedies such as policy changes and training.

CASE 6

Race discrimination in a testing case

The Case: Michael Pontoriero, an owner of two apartment buildings in North Arlington, New Jersey, allegedly refused to show apartments to or return the calls of a prospective tenant after learning that he is African American, and that Pontoriero repeated these and other discriminatory behaviors against African Americans in four separate tests conducted by the Fair Housing Council of Northern New Jersey (FHCNNJ).

Result: Following an investigation of the facts, HUD charged the owners of the two apartment buildings were charged with violating the Fair Housing Act for allegedly denying rental opportunities to African Americans. HUD brought the charge on behalf of the prospective tenant and FHCNNJ, a non-profit fair housing organization that receives funding from HUD to investigate claims of discrimination, after both filed complaints with the Department.

HUD’s charge alleges that “Testing is a critical tool in exposing discriminatory treatment that might otherwise go undetected,” said Bryan Greene, HUD Acting Assistant Secretary for Fair Housing and Equal Opportunity. “HUD and its fair housing partners will continue to utilize trained testers to identify and end unlawful housing discrimination.”

CASE 7

Landlord charged with discrimination against mother and daughter

The Case: A woman contacted the owner after seeing an advertisement in a local newspaper for a one-bedroom apartment in Jackson, Minnesota. When she told the owner that the unit was for her and her one-year-old daughter, the owner allegedly said that he had rented to families before and it “just doesn’t work.” During HUD’s investigation, the owner admitted that he told the woman he preferred to rent the apartment to adults, not families with children. Two weeks after turning the woman down, the owner rented the apartment to an applicant without minor children. The lease included a provision limiting the unit to one person only.

Result: HUD charged the landlord with violating the Fair Housing Act for allegedly refusing to rent an apartment to a woman and her young daughter. HUD's charge alleges that the owner refused to rent to the family because he preferred not to rent to families with children. "Refusing to rent housing to families with children is against the law unless the property legally qualifies as housing for older persons," said Bryan Greene, HUD's Acting Assistant Secretary for Fair Housing and Equal Opportunity. "HUD will continue to take action against property owners who discriminate against prospective tenants because of their family status."

CASE 8

Blind man with service dog rejected by homeless shelter

The Case: The Complainant, a blind, homeless individual contacted City Rescue Mission of New Castle, PA (CRM) in order to seek shelter. The Complainant alleged that a CRM employee informed the man that he could not move into the shelter with his guide dog even after the man said that he could not be without his service animal. When a caseworker from Lawrence County Community Action, an organization that assists low-income people, contacted the shelter and explained that the man needed the guide dog because of his disability, the CRM employee again refused, saying that the dog would have to go elsewhere.

Result: Following an investigation of the facts, HUD charged CRM and one of its employees with refusing to accept a blind man and his guide dog at a homeless shelter in New Castle, PA. HUD's investigation found that CRM denied a reasonable accommodation request to allow the man to keep his dog in the shelter, in violation of the Fair Housing Act. The Fair Housing Act requires housing providers to make reasonable accommodations in their rules, policies, practices, or services when needed to provide persons with disabilities an equal opportunity to use or enjoy a dwelling. "For many people with disabilities, guide dogs and other assistance animals are necessities, not options," stated John Trasviña, then HUD Assistant Secretary for Fair Housing and Equal Opportunity.

CASE 9

USA settles race discrimination case with St. Bernard Parish, Louisiana

The Case: In 2013, HUD and the Justice Department announced that St. Bernard Parish, La., has agreed to a settlement valued at more than \$2.5 million to resolve separate lawsuits by the United States and private plaintiffs alleging that the parish sought to restrict rental housing to African Americans in the aftermath of Hurricane Katrina.

The United States' lawsuit alleged, among other things, that the parish: (1) passed a law, known as the permissive use permit ordinance, that prevented homeowners from renting single-family homes in residential zones without first obtaining a permit from the parish; (2) revised its zoning code to reduce dramatically the amount of land available for multi-family apartments; and (3) interfered with individuals' housing rights. The lawsuit further alleged that these actions were done to limit or deny rental housing to African-Americans in violation of the Fair Housing Act. These actions came on the heels of the parish's other efforts after Hurricane Katrina to restrict rental housing opportunities, including halting the re-establishment or

redevelopment of rental housing and enacting a permit requirement for single-family rentals but exempting renters who were “related by blood” to the homeowners. The parish later rescinded these restrictions.

Result: “No community has the right to keep people from living in that community because of their race,” said John Trasviña, then Assistant Secretary for Fair Housing and Equal Opportunity. “HUD and the Justice Department are committed to taking action against municipalities that violate the Fair Housing Act by instituting discriminatory zoning and other housing practices.”

CASE 10

HUD files Secretary-initiated complaint for discrimination against Hispanics

The Case: After being told about the complex’s discriminatory rental practices, HUD filed a Secretary-initiated complaint alleging that TriTex Real Estate Advisors, Inc., of Atlanta, and its management company terminated lease agreements, ignored maintenance requests, and intimidated and harassed Hispanic tenants.

Result: In 2013, HUD announced that the Nashville, TN, apartment complex will pay more than \$170,000 as part of a settlement resolving allegations that it discriminated against Hispanic tenants based on their national origin. Under the terms of the agreement, the manager and owner will establish a \$150,000 victims’ compensation fund for former residents administered by an independent agency and to pay \$10,000 each to two non-profit organizations – the Tennessee Fair Housing Council and the Tennessee Immigrant and Refugee Rights Coalition (TIRRC) – to identify potential claimants. In addition, TriTex and its management company will adopt fair housing policies and its employees will undergo fair housing training. The Fair Housing Act makes it unlawful to impose different rental terms and conditions based on national origin, race, color, religion, sex, familial status, or disability.

CASE 11

Section 504 of the Rehabilitation Act complaint against a HUD-assisted apartment complex

The Case: Complainant alleged that a HUD-assisted apartment complex in a rural community discriminated against her based on her disability by refusing to make repairs to her apartment and by failing to make reasonable accommodations. She alleged the Respondents failed to timely transfer her to a 3-bedroom apartment with a first floor bedroom and bathroom, failed to provide assigned a parking space for handicapped van access, and failed to provide a wheelchair accessible route from her apartment to the parking lot.

Result: The investigation revealed the HUD-assisted, privately owned apartment complex in western Nebraska did not have any units accessible to the disabled. The Respondents denied discriminating against the Complainant, but agreed to settle her claims and to make physical modifications designed to increase accessibility of the complex to persons with disabilities. The parties signed a Conciliation Agreement and Voluntary Compliance and Conciliation Agreement providing \$22,500 for the Complainant and a variety of public interest provisions, including making three units or five percent of the apartments accessible to persons with disabilities as contained in the Uniform Federal Accessibility Standard (UFAS).